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MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 23rd April, 1994/Vaisakha 3, 1916 (Saka)

THE DADRA AND NAGAR HAVELI VILLAGE PANCHAYATS (AMENDMENT) REGULATION, 1994

No. 2 OF 1994

Promulgated by the President in the Forty-fifth Year of the Republic of India.

A Regulation further to amend the Dadra and Nagar Haveli Village Panchayats Regulation, 1965.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

Short title and Commencement.

1. (*1*) This Regulation may be called the Dadra and Nagar Haveli Village Panchayats (Amendment) Regulation, 1994.

(*2*) It extends to the whole of the Union territory of Dadra and Nagar Haveli.

(*3*) It shall come into force at once.

Amendment of section 1.

2. In section 1 of the Dadra and Nagar Haveli Village Panchayats Regulation, 1965 (hereinafter referred to as the principal Regulation), in sub-section (*1*), the word "Village" shall be omitted.

Amendment of section 2.

3. In section 2 of the principal Regulation,—

(*i*) after clause (*b*), the following clauses shall be inserted, namely:—

"(*ba*) "Election Commission" means the Election Commission referred to in section 8;

(*bb*) "Finance Commission" means the Finance Commission referred to in section 46A;

(*ii*) clause (*e*) shall be omitted;

(*iii*) for clause (*f*), the following clause shall be substituted, namely:—

'(*f*) "Panchayat" means a village Panchayat or the district Panchayat, as the case may be, established under the provisions of this Regulation;';

(*iv*) after clause (*f*), the following clauses shall be inserted, namely:—

'(*fa*) "Panchayat area" means the territorial area of a Panchayat;

(*fb*) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;';

(*v*) after clause (*g*), the following clause shall be inserted, namely:—

'(*ga*) "President-cum-Chief Counsellor" and Vice-President-cum-Counsellor" means the President-cum-Chief Counsellor and the Vice-President-cum-Counsellor, as the case may be, of the district Panchayat;';

(*vi*) clause (*m*) shall be omitted.

Insertion of new section 3A.

4. After section 3 of the principal Regulation, the following section shall be inserted, namely:—

Establishment of District Panchayat.

"3A. There shall be a district Panchayat for the whole of the Union territory from such date as the Administrator may, by notification appoint.".

Substitution of section 7.

5. For section 7 of the principal Regulation the following section shall be substituted, namely:—

Composition of Panchayats.

"7 (*1*) All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and for this purpose, each Panchayat area shall be divided by the Election Commission into territorial constituencies, in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, as far as practicable, be the same throughout the Panchayat area.

(2) The total number of seats in a Panchayat shall be determined by order to be published in the Official Gazette, by the Administrator:

Provided that the ratio between the population of the territorial area of a Panchayat and the number of seats in such Panchayat to be filled by election shall, as far as possible, be the same throughout the Union territory.

(3) The district Panchayat shall consist of the following members:—

(a) elected members for the seats referred to in sub-section (2);

(b) the Chairperson at village level; and

(c) the Member of the House of the People representing the Union territory,

who shall have the right to vote in the meetings of the District Panchayat.

(4) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, as the case may be, in every Panchayat. The number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area. The exact number of such seats reserved for the Scheduled Castes and the Scheduled Tribes, as the case may be, shall be determined by the Administrator by order, to be published in the Official Gazette

(5) Seats shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes, from among the seats reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes. The Administrator may by order, published in the Official Gazette, shall determine the number of such seats which shall not be less than one-third of the total number of seats reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(6) Seats shall be reserved for women, the number of such seats being determined by order to be published in the Official Gazette by the Administrator, which shall not be less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in a Panchayat.

(7) Seats reserved for the Scheduled Castes, the Scheduled Tribes and women under sub-sections (3), (4) and (5), as the case may be, shall be allotted by rotation to different constituencies in such manner as the Election Commission may, by order to be published in the Official Gazette, direct in this behalf.".

Substitution of section 8.

6. For section 8 of the principal Regulation, the following section shall be substituted, namely:—

Election Commission.

"8. (*1*) With effect from such date as the President may, by notification, specify, the Election Commission constituted under section 185 of the Andaman and Nicobar Islands (Panchayats) Regulation, 1994 shall be the Election Commission for the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to, the Panchayats in the Union territory of Dadra and Nagar Haveli.

(*2*) The Administrator shall, when so requested by the Election Commission, make available to that Commission such staff which the Administrator considers necessary for discharge of the functions conferred on the Election Commission by sub-section (*1*).".

Amendment of section 12.

7. In section 12 of the principal Regulation,—

(*i*) in clause (*b*), for the words "twenty-five", the words "twenty-one" shall be substituted;

(*ii*) after clause (*j*), the following clauses be added, namely:—

"(*k*) is so disqualified by or under any law for the time being in force for the purposes of elections to the House of the People:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years; or

(*l*) is so disqualified by or under any law made by the Parliament.".

Amendment of section 13.

8. In section 13 of the principal Regulation,—

(*i*) for the words "prescribed authority for decision and its decision" the words "Administrator for decision and his decision" shall be substituted; and

(*ii*) the following proviso shall be added at the end, namely:—

"Provided that before giving any decision on any such question, the Administrator shall obtain the opinion of the Election Commission and shall act according to such opinion.".

Amendment of section 16.

9. In section 16 of the principal Regulation,—

(*i*) in the second proviso, for the word "three" the word "six" shall be substituted;

(*ii*) the third proviso shall be omitted.

Insertion of new section 46A.

10. After section 16 of the principal Regluation, the following new section shall be inserted, namely:—

Prohibition of simultaneous membership

"16A. (*1*) If a person is elected from more than one constituencies (whether of a Village Panchayat or of the District Panchayat or of both), he shall by notice in writing signed by him and delivered to the Collector, within ten days from the date, or the later of the dates,

on which he is so elected, intimate as to which constituency he wishes to serve, and thereupon, his seat in all other constituencies in which he does not wish to serve shall become vacant.

(2) In default of such intimation within the aforesaid period, all his seats, at the expiration of that period, become vacant.

(3) Any intimation given under sub-section (1) shall be final and irrevocable.".

Amendment of section 17.

11. In section 17 of the principal Regulation,—

(*i*) in sub-section (1), for the word "apply" the words "present an election petition" shall be substituted; and

(*ii*) in sub-section (2) for the word "application", the words "election petition" shall be substituted.

Amendment of section 20.

12. In section 20 of the principal Regulation,—

(*i*) for sub-section (*1*), the following sub-sections shall be substituted, namely:—

"(*1*) At the first meeting of a Village Panchayat or the district Panchayat, as the case may be, to be called on a date fixed by the Administrator after each general election,

(*a*) the members of a village Panchayat shall elect, from amongst themselves, a Sarpanch and an Up-Sarpanch;

(*b*) the members of the district Panchayat (including the Sarpanch of Village Panchayats) shall elect from amongst the directly-elected members of the district Panchayat, a President-cum-Chief-Counsellor.

(*1A*) The offices of Sarpanch shall be reserved for the Scheduled Castes and the Scheduled Tribes, the number of such offices being determined by the Administrator by order to be published in the Official Gazette, which shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats as the population of Scheduled Castes in the Union territory or of the Scheduled Tribes in the Union territory, bears to the total population of the Union territory:

Provided that offices of the Sarpanch shall also be reserved for women, the number of such offices being determined by the Administrator by order to be published in the Official Gazette, which shall not be less than one-third of the total number of offices of Sarpanch in the Union territory:

Provided further that the number of offices of the Sarpanch reserved under this sub-section shall be allotted by rotation to different Panchayats in such manner as may be determined by the Election Commission.

(*1B*) The office of the President-cum-Chief Counsellor shall be reserved for the Scheduled Tribes:

Provided that the office of the President-cum-Chief Counsellor shall be reserved alternately for a man and woman belonging to the Scheduled Tribes.".

(*ii*) in sub-section (5), for the words "such authority as may be specified by notification by the Administrator and the decision of such authority thereon shall be final", the words "the Election Commission and its decision thereon shall be final" shall be substituted.

Substitution of section 22.

13. For section 22 of the principal Regulation, the following section shall be substituted, namely:—

Duration of Panchayats.

"22. (*1*) Every Panchayat, unless sooner dissolved under section 53, shall continue for five years from the date appointed for its first meeting and no longer;

Provided that a Panchayat existing immediately before the commencement of this Regulation shall continue till the expiration of its duration, unless sooner dissolved under section 53.

(*2*) An election to constitute a Panchayat shall be completed—

(*a*) before the expiry of its duration specified in sub-section (*1*);

(*b*) before the expiration of a period of six months from the date of its dissolution;

Provided that where the remainder of the period for which the dissolved Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the Panchayat.

(*3*) A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayat would have continued under sub-section (*1*) had it not been so dissolved.".

Amendment of section 24.

14. In section 24 of the principal Regulation, in sub-section (*1*), for the words "from the date of its receipt by the Sarpanch.", the words from the date it is accepted by the Sarpanch." shall be substituted.

Amendment of section 27.

15. At the end of section 27 of the principal Regulation, the following proviso shall be added, namely:—

"Provided that, if the vacancy be a casual vacancy in the office of the Sarpanch or the President-cum-Chief Counsellor, as the case may be, and is reserved for women or for the Scheduled Castes or the Scheduled Tribes, the vacancy shall be filled by electing one of the members from amongst women or a member of the Scheduled Castes or the Scheduled Tribes, as the case may be.".

Amendment of section 28.

16. In section 28 of the principal Regulation, for the sub-section (*1*), the following shall be substituted, namely:—

"(*1*) The Administrator shall appoint a Secretary for every village Panchayat and a Chief Executive Officer in relation to a district Panchayat.".

Amendment of section 32.

17. In section 32 of the principal Regulation,—

(*i*) in sub-section (*1*) after the words "Second Schedule" the words "and the Third Schedule, as the case may be" shall be inserted;

(*ii*) after sub-section (*2*) the following sub-sections shall be inserted, namely:—

"(*3*) Subject to the provisions of sub-section (*1*) a village Panchayat and district Panchayat as the case may be shall have powers and responsibilities with respect to the preparation of plans and implementation of schemes for development and social justice as may be entrusted to it by the Administrator including those in relation to the matters specified in the Second Schedule in case of a village Panchayat and those specified in the Third Schedule in case of the district Panchayat.

(*4*) The Administrator may, from time to time, consult the President-cum-Chief Counsellor and the Vice-President-cum-Counsellor on any matter relating to the administration of the Union-territory specified in the Fourth Schedule and the views of President-cum-Chief Counsellor or the Vice-President-cum-Counsellor on such matter shall be recommendatory in nature.

(*5*) The Administrator shall follow such procedure for consulting under sub-section (*4*) as may be prescribed.

(*6*) The President-cum-Chief Counsellor and the Vice-President-cum-Counsellor shall be entitled to such salary or allowances as the Administration may, with the approval of the President, by order determine.".

Amendment of section 40.

18. In section 40 of principal Regulation,—

(*1*) in sub-section (*1*),—

(*i*) for the word "Panchayat" the words "village Panchayat" shall be substituted;

(*ii*) for clause (*h*), the following clause shall be substituted, namely:—

"(*h*) water rate which may be imposed in the form of a rate assessed on buildings and lands or any other form as may be best adapted to the circumstances of any class of cases;";'

(*2*) after sub-section (*1*) the following sub-sections shall be inserted, namely:—

"(*1A*) Subject to such maximum rates as the Administrator may prescribe, a District Panchayat may—

(*a*) levy tolls on persons, vehicle or animals or any class of them at any toll-bar established by it on any road

other than a kutcha road or any bridge vested in it or under its management;

(*b*) levy tolls in respect of any ferry established by it or under its management;

(*c*) levy the following fees and rates, namely—

(*i*) fees on the registration of boats or vehicles;

(*ii*) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and melas within its jurisdiction as may be specified by the Administrator by notification;

(*iii*) a fee for licence for fair or mela;

(*iv*) a lighting rate where arrangement for lighting of public streets and places is made by the District Panchayat within its jurisdiction; and

(*v*) water rate where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the district Panchayat within its jurisdiction.

(*1B*) The district Panchayat shall not undertake registration of any vehicle or levy fee therefor and shall not provide sanitary arrangements at places of worship or pilgramage, fairs and melas within its jurisdiction or levy fee therefore if such vehicle has already been registered, by any other authority under any law for the time being in force or if such provision for sanitary arrangement has already been made by any other local authority.

(*1C*) The scales of tolls, fees or rates and the terms and conditions for the imposition thereof shall be such as may be provided by rules made in this behalf. Such rules may provide for exemption from all or any of the tolls, fees or rates in any class of cases.".

Insertion of new section 46A.

19. After section 46 of the principal Regulation, the following new section shall be inserted, namely:—

Finance Commission.

"**46A.** With effect from such date as the President may, by notification, specify, the Finance Commission constituted under section 186 of the Andaman and Nicobar Islands (Panchayats) Regulation 1994 shall also be the Finance Commission for the purposes of making recommendations to the Administrator of the Union territory of the Dadra and Nagar Haveli as to—

(*a*) the principles which should govern—

(*i*) the determination of the taxes, duties, tolls and fees which may be assigned to or appropriated by the Pachayats;

(*ii*) the grants-in-aid to the Panchayats;

(*b*) the measures needed to improve the financial position of the Panchayats; and

(*c*) any other matters referred to the Finance Commission by the Administrator in the interests of sound finance of the Panchayats.'.

Amendment of section 53.

20. In section 53 of the principal Regulation,—

(*i*) in sub-section (3), after clause (*b*), the following clause shall be added, namely:—

"(*c*) all property vested in the Panchayat shall, until it is reconstituted, vest in the Central Government.";

(*ii*) after sub-section (3), the following new sub-section shall be added, namely:—

"(4) Subject to the provisions of section 22, an election to constitute a Panchayat shall be completed before the expiration of a period of six months from the date of its dissolution.".

Insertion of new section 70.

21. After section 69 of the principal Regulation, the following new section shall be inserted, namely:—

Removal of difficulties.

70. If any difficulty arises in giving effect to the provisions of this Regulation the Administrator may, by order, make such provision as may appear to him to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made which is in contravention of the provisions of the said Regulation or after the expiry of a period of two years from the commencement of the Dadra and Nagar Haveli Village Panchayats (Amendment) Regulation, 1994.

Insertion of the third and Fourth Schedules.

22. In the principal Regulation, after the Second Schedule the following Schedules shall be added, namely:—

"THE THIRD SCHEDULE

[*See* section 32]

(Matters within the jurisdiction of District Panchayat)

1. All the matters specified in the Second Schedule involving two or more village Panchayats.

2. Non-conventional energy sources.

3. Poverty alleviation programme.

4. Welfare of the weaker sections, and in particular, of the Scheduled Castes and Scheduled Tribes.

5. Maintenance of Community assets.

THE FOURTH SCHEDULE

[*See* section 32(*4*)]

(Matters on which the President-cum-Chief Counsellor and the Vice-President-cum-Counsellor may be consulted by the Administrator

1. All general matters pertaining to Panchayats.

2. Matters relating to training of staff of Panchayats.

3. Review of administration of Panchayats and co-ordination of the activities of Panchayats.

4. Removal of difficulties of Panchayats.

5. Matters relating to small scale industries including food processing industries.

6. Matters pertaining to Union territory level educational institutions.

7. Matters relating to rural electrification.

8. Matters relating to public distribution system.

9. Proposals relating to taxes.

10. Any other matter on which administrator may like to consult.".

Appeal of Regulation 2 of 1988.

23. The Dadra and Nagar Haveli (Administration) Regulation, 1988 is hereby repealed:

Provided that the Pradesh Council existing immediately before the commencement of the Dadra and Nagar Haveli Village Panchayats (Amendment) Regulation, 1994 shall cease to exist on the date immediately before the date appointed under section 3A.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

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